

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

DAVID A. STEBBINS

PLAINTIFF

v.

NO. 4:16-CV-545-JM

**STATE OF ARKANSAS, ARKANSAS
REHABILITATION SERVICES, AND
AMY JONES**

DEFENDANT

**DEFENDANTS' RESPONSE TO PLAINTIFF'S
SECOND MOTION FOR SANCTIONS**

COME NOW Defendants the State of Arkansas, Arkansas Rehabilitation Services, and Amy Jones, by and through their attorneys, Attorney General Leslie Rutledge and Assistant Attorney General Amber R. Schubert, and for their Response to the Second Motion for Sanctions filed by Plaintiff, state as follows:

1. Plaintiff David Stebbins filed his Complaint in this action alleging Defendants Amy Jones and Arkansas Rehabilitation Services ("ARS") violated his civil rights pursuant to 42 U.S.C. § 1983 and his rights under Title II of the Americans With Disabilities Act (ADA), and seeks a total of \$744,537.50 in damages. Plaintiff also sued the State of Arkansas, but makes no allegations against the State of Arkansas in his Complaint.

2. On November 10, 2016, Defendants filed a Motion to Dismiss Plaintiff's Complaint for failure to state a claim upon which relief can be granted, and because Plaintiff's claims are barred Eleventh Amendment sovereign immunity. On December 6, 2016, Plaintiff filed a response to Defendants' Motion to Dismiss and that motion is now pending before the Court.

3. Despite the pending Motion to Dismiss, Plaintiff has repeatedly asserted that the Court has “already decided in his favor on the issue of sovereign immunity” and “plans on denying the Defendant’s [sic] Motion to Dismiss” and attempted to force Defendants to prematurely litigate the merits of his claims. See Docket Entries 25 and 30.

4. In addition to filing a premature motion for summary judgment, Plaintiff has also prematurely served discovery on Defendants, filed a motion for contempt, and twice moved for sanctions against Defendants for simply defending themselves against Plaintiff’s lawsuit.

5. Most recently, Plaintiff filed a motion requesting Defendants be sanctioned for raising the affirmative defense of sovereign immunity and stating that they are entitled to take an appeal on the issues of sovereign immunity in the event of an unfavorable ruling on the issue.

6. Specifically, Plaintiff asks that Defendants be sanctioned “to remind them that they are not above the law.” D.E. 31, ¶16.

7. Like his first motion for sanctions, Plaintiff’s second motion for sanctions is frivolous and designed to harass Defendants.

8. Plaintiff’s motion for sanctions describes no sanctionable conduct by Defendants and must be denied.

9. A protective order should be entered preventing Plaintiff from serving any further discovery on Defendants, or filing any further motions until this Court has had an opportunity to rule on the pending Motion to Dismiss.

WHEREFORE, Defendants the State of Arkansas, Arkansas Rehabilitation Services, and Amy Jones, pray that Plaintiff’s Second Motion for Sanctions be denied, that their Motion to Dismiss be granted, and for all other just and proper relief to which they are entitled.

Respectfully submitted,

Leslie Rutledge
Attorney General

By: /s/ Amber R. Schubert
Arkansas Bar No. 2009150
Assistant Attorney General
323 Center Street, Suite 200
Little Rock, Arkansas 72201
Telephone: (501) 682-2081
Facsimile: (501) 682-2591
amber.schubert@arkansasag.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I, Amber R. Schubert, Assistant Attorney General, do hereby certify that on January 10, 2017, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system.

I, Amber R. Schubert, hereby certify that on January 10, 2017, I mailed the document by U.S. Postal Service to the following non CM/ECF participant:

Mr. David Stebbins
123 W. Ridge St., Apt. D
Harrison, Arkansas 72601

/s/ Amber R. Schubert